IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CIVIL REVISION NO. 1352 OF 1989

DATE OF DECISION: September 20, 2006.

Parties Name

Jagdish Chand

...PETITIONER

VERSUS

Shiv Narain Atal and others

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASBIR SINGH

PRESENT: Mr. R.K. Jain,
Advocate, for the petitioner.

None for the respondents.

JASBIR SINGH, J. (oral)

Judgment.

Dispute herein pertains to assessment of 'fair rent' by the Rent Controller. Petitioner -landlord filed an application for fixation of the fair rent under Section 4 of the Haryana Urban (Control of Rent and Eviction) Act, 1973. Basic agreed rent, for the demised premises was stated to be Rs. 310/- per month. That application was allowed and the rent was enhanced to Rs. 372.12 paise per month from the date of moving the application. Petitioner, feeling dissatisfied, filed an appeal, which was dismissed vide order dated September 1, 1988. Hence this revision petition.

It is contention of counsel for the petitioner that the fair rent has not been fixed by the Rent Controller, as per the formula, laid down by this Court in Yoginder Mohan vs. Krishan Lal, 1999(2) R.C.R. (Rent) 466. This Court feels that the contention raised is perfectly justified. A Division

Bench of this Court, while dealing with a similar proposition of law in Yoginder Mohan's case (supra) , has observed thus:

> "12. In our view the Controller would have to take the basic or agreed rent as the basis for determining the fair rent payable on an application under sub-section(2) of Section 4, and he would have to determine the percentage of rise or fall in the general level of the prices for the dates indicated in Section. For determining the percentage of increase he would have to refer to the All India Whole Sale Price Index Numbers as determined by the Government of India for the calendar year immediately preceding the date of application. Thereupon the Controller would have to proceed to find out the percentage indicated by this rise or fall in relation to the basic or agreed rent payable by the tenant to the landlord. Thus he would increase the basic or agreed rent by relying on such portion of the Price Index in the above manner to arrive at a final figure of the fair rent to be paid as rent. In order to obstracize the possibility of any confusion persisting any further, we would demonstrate the application of the above principle in terms of the figures applicable to the present case:
>
> Fair rent fixed by the Court vide order dated 30.11.1985: Rs. 621.40
>
> Date on which the present application was filed for increasein fair rent: 13.1.1995
>
> Agreed or basic rent for the purpose of present petition. Rs.621.40
>
> Figure of Whole Sale Price Index for the year 1984, as reflected in the Price Index determined by the Government of India Rs.604.5
>
> Figure of Price Index as indicated for the year 1994 (immediately preceding the year of presentation of petition/application i.e. 1995) Rs.1409.59
>
> Increase in Price Index (1409.59 – 605.5) 805.09

Percentage of difference between two figures of Price Index Numbers:	133.18%
The Court can grant increase or decrease to the maximum 25% under Section 4(3) i.e. 25% the percentage of difference between two figures of Price Index Numbers which comes to 33.29%. On this basis the increase in fair rent comes to <$E(621.40x33.29) over (100)>	206.86

13.Therefore, the basic rent would be liable to be increased by a sum of Rs. 206.86. Thus, the Court ought to have fixed the fair rent at Rs. 828.26 (Rs. 621.40 + 206.86)."

It is apparent from the order passed by the Rent Controller in the present case that the rent has not been assessed, as per the criteria fixed by this Court in Yoginder Mohan's case (supra). So far as basic rent is concerned, the same has been held to be Rs. 310/- per month. Finding to that extent is perfectly justified. However, the calculation made, in fixing the fair rent, is not as per the criteria fixed by this Court. To that extent, judgment passed by the Rent Controller and finding given by the Appellate Authority are set aside. Matter is remitted to the Rent Controller to recalculate the fair rent on the basis of admitted basic rent, i.e., Rs. 310/- in the year 1978, as per ratio of the judgment in Yoginder Mohan's case (supra). Needful be done within three months from the date of receipt of copy of this order. Calculation be made after hearing the opposite party. Revision petition stands disposed of accordingly.

September 20, 2006 (Jasbir Singh)
DKC Judge